

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JERMAIN L. SPEARS,

Plaintiff,

v.

DANELL FRANCSIS,

Defendant.

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No. 4:21-CV-929 JAR

**MEMORANDUM AND ORDER**

This matter is before the Court upon review of the file. Plaintiff Jermain Spears commenced this civil action on July 28, 2021, by filing a handwritten Complaint brought under 42 U.S.C. § 1983 against Danell Francis, Warden at Potosi Correctional Center. ECF No. 1. However, Plaintiff neither paid the filing fee nor sought leave to proceed *in forma pauperis*. On August 9, 2021, the Court entered an Order directing Plaintiff to either pay the filing fee or file a motion for leave to proceed *in forma pauperis* within thirty (30) days. ECF No. 2. The Court cautioned Plaintiff that his failure to timely comply with the Order would result in the dismissal of his case without further notice. Plaintiff's response was due by September 8, 2021.

To date, Plaintiff has neither responded to the Court's Order, nor sought additional time to do so. Plaintiff was given meaningful notice of what was expected, he was cautioned that his case would be dismissed if he failed to timely comply, and he was given ample time to comply. The Court will therefore dismiss this action, without prejudice, due to plaintiff's failure to comply with the Court's August 9, 2021 Order and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (the authority of a court to dismiss *sua sponte* for lack of prosecution is inherent power governed "by the control necessarily vested


in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases”); *Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff’s failure to comply with any court order).

Accordingly,

**IT IS HEREBY ORDERED** that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

**IT IS HEREBY CERTIFIED** that an appeal from this dismissal would not be taken in good faith.

Dated this 4<sup>th</sup> day of October, 2021.

  
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JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE